

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of)
)
Application of)
)
EchoStar Communications Corporation (a)
Nevada Corporation), General Motors, and)
Hughes Electronics Corporation (Delaware)
Corporations))
)
(Transferors))
)
and)
)
EchoStar Communications Corporation (a)
Delaware Corporation))
)
(Transferee))

CS Docket No. 01-348

To: Chief Administrative Law Judge
Richard L. Sippel

OPPOSITION TO MOTION TO DELETE AND CLARIFY ISSUES

1. EchoStar Communications Corp. ("EchoStar"), General Motors Corp., and Hughes Electronics Corp. (collectively, the "Applicants"), have filed a motion pursuant to Section 1.229 of the Commission's Rules, 47 C.F.R. § 1.229, to delete and clarify certain issues that were designated by the Commission in the Hearing Designation Order.¹ The Motion should be denied, without prejudice to the Applicants' right to seek relief at a later date, or should be deferred.

2. The Applicants recently filed with the Commission a petition to suspend this hearing² and an amended application for authority to transfer control.³ The amended application is different from the original. The amended application seeks to address the concerns identified in the Commission's

¹ Motion to Delete and Clarify Issues (Nov. 27, 2002) (the "Motion").

² Petition for Suspension of Hearing (Nov. 27, 2002).

³ Amendment to Consolidated Application for Authority to Transfer Control (Nov. 27, 2002).

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hearing designation order. If the Commission grants the amended application, the Motion will be moot because no hearing would be needed. If the Commission rejects the amended application and the hearing process goes forward, the Commission may well address the concerns raised by the Applicants in the Motion in its ruling on the amended application or, on the other hand, designate additional issues to be decided at the hearing. Moreover, after the Commission has issued its decision, the parties will be better able to address whether there should be any additional modifications to the list of issues set forth in the Hearing Designation Order. Ruling on Applicants' Motion at this time is unnecessary and would be a waste of Commission resources, as well as those of the parties.

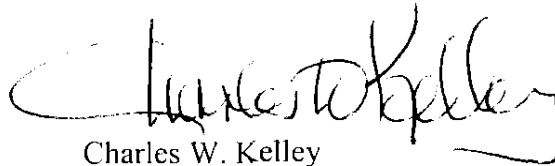
3. The Applicants are also seeking to defer a ruling on the Motion while their petition to suspend the hearing is pending.⁴ We agree that, if the Request is not denied, it should be deferred. The Bureau and other parties to this proceeding should not be required to address the merits of the Request now. If, after the Commission acts, the Applicants deem it necessary to file a renewed Request or seek action on the deferred Request, we will address the merits of their Motion then.

⁴ See Request at 3-4., 17

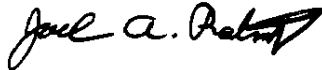
CONCLUSION

4. For the reasons set forth above, the Motion should be denied, without prejudice to the Applicants' right to seek relief at a later date, or should be deferred.

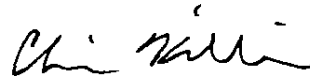
Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles W. Kelley". The signature is fluid and cursive, with the first name "Charles" written in a larger, more prominent script than the last name "Kelley".

Charles W. Kelley
Chief, Investigations and Hearings Division
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A handwritten signature in black ink, appearing to read "Joel A. Rabinovitz". The signature is written in a cursive style, with the first name "Joel" and last name "Rabinovitz" clearly legible.

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A handwritten signature in black ink, appearing to read "Christopher L. Killion". The signature is written in a cursive style, with the first name "Chris" and last name "Killion" clearly legible.

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December 9th, 2002

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CERTIFICATE OF SERVICE

I, Robin Peltzman of the Investigations and Hearings Division, Enforcement Bureau, certify that I have, on this 9th day of December, 2002, served copies of the foregoing "Opposition to Motion to Delete and Clarify Issues" via mail or hand to the persons and entities set forth below.

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